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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,789	02/24/2006	Edwin Bolduan	2003P01217WOUS	6618

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EXAMINER

PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
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1792

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/569,789	Applicant(s) BOLDUAN ET AL.	
	Examiner Joseph L. Perrin, Ph.D.	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060224</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 7-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 7, line 4, the recitation of "impermeable spacing compartments" is new matter. The claimed limitation was added in new claim 7 in a preliminary amendment. However, no such structure is disclosed in the original disclosure of this National Stage application as the original disclosure appears to be directed to "air-permeable spacing compartments". In order to maintain priority for this National Stage application, this new matter should be removed from the instant claims and corrected to read on the original disclosure of "air-permeable spacing compartments".

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6, last line, it is unclear what is meant by “without any formation in which a water reservoir can form”. By itself, it is unclear how such language imparts any structural configuration to the claimed apparatus because the general formation of a water reservoir as claimed is not a common occurrence in a washing machine. Turning to the specification, it appears the limitation is directed to preventing formation of a water reservoir in the line and the claims should be corrected accordingly to coincide with this scope as it is not clear how else a water reservoir may form as broadly claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 6 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 10122514 ("DE '514"; cited as "X" reference in European search report). DE '514 discloses a washing machine comprising a detergent flushing device (drawer 6/7 open to the outside atmosphere for adding detergent, readable on "free connection to the surrounding atmosphere") and a detergent introduction line (3/4) running to the washing tub (1), as well as a supplementary ventilation line (14) guided from an opening provided as high as possible

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on the tub to a nozzle arranged as high as possible on the detergent flushing device (see connection of line 14 at the top of device 6 and the top of tub (1)) and that the detergent introduction line (3/4) is guided from the device (6/7) to an upper region of the tub (1) located as far as possible from the opening of the nozzle (connection of line 14 to device (6/7)). Since the line (14) is vertical, the arrangement prevents a water reservoir from forming therein.

Applicant claims a "nozzle" for which line (10) connects to the detergent device (6) in a conventional manner of connecting lines to inlets/outlets in the washing machine art. While the position is taken that the lines of DE '514 connected to inlets or "nozzles" in a similar conventional manner which is common knowledge in the art, even if assuming *arguendo* that the solid lines shown in Figure 1 of DE '514 are directed to the tub (2), line (14) and drawer (5/6) as being an integral structure (from a manufacturing standpoint, one having ordinary skill in the art would immediately recognize that this would be a very ineffective and cost inefficient way to form the components), it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tub (2), line (14) and drawer (5/6) as separate structures as they are common knowledge known in the art to result in the drawer inlet forming a "nozzle" for connecting the line, since it has been held that making integral structures separate or removable for their intended purpose involves only routine skill in the art. See *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961). Moreover, while the position is taken that the components are arranged "as far as possible" within the scope of the prior art disclosure and the scope of the claimed invention, even if *arguendo* one

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were to consider the precise locations of the connections as not readable on the claimed invention, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a slight rearrangement of the location of the connections which would yield the same predictable result, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE '514 in view of DE 1460837 ("DE '837; cited by applicant in European search report). DE '514, *supra*, discloses the claimed invention with respect to claim 6. DE '514 discloses a detergent flushing device (i.e. dispensing drawer) with a lower portion having plural, impermeable and air-permeable spacing compartments (Figures 1-2 in DE '514) but does not disclose the drawer as having a cover. It is common knowledge that drawer-type detergent dispensers include a cover. DE '837 teaches that it is known to provide a drawer dispenser with impermeable and air-permeable spacing compartments (defined by wall 2) in a lower portion and a cover (18) lying on the lower portion (see Figures 1-2 and relative associated text). Because both DE '514 and DE '837 teach washing machines with drawer dispensers, it would have been obvious to one skilled in the art to substitute one drawer for the other to achieve the predictable results of

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providing a washing machine with a drawer-type dispenser and covering the dispenser for well known uses of covers, such as preventing contamination. There appears to be nothing unexpected or unpredictable in using the claimed cover configuration as claimed in claim 7, and no such distinction is apparent on this record. Accordingly, the apparatus as claimed in claim 7 is deemed unpatentable.

Allowable Subject Matter

12. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent Nos. 6,711,773, 6,499,322 & 6,148,645 to DE YOUNG et al.; U.S. Patent No. 6,849,094 to NORTH; U 4,110,075 to GRAF et al. & EP 132884; each disclosing a washing machine with detergent dispenser having a supplementary ventilation line.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 8:00-4:30.

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15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/
Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1792

JLP